

ORIGINAL

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

DOCKET FILE COPY ORIGINAL

RECEIVED

APR 24 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.606(b)

Table of Allotments

Analog Television Broadcast Stations
(Vicksburg, Mississippi)

MM Docket No. 00-____

RM-____

To: Chief, Video Services Division

PETITION FOR RULE MAKING

Vicksburg Channel 35 Associates, LLC ("VCA"), applicant for a new NTSC facility on Channel 35, Vicksburg, Mississippi, hereby requests that the Commission expeditiously initiate a rule making proceeding to substitute and allot NTSC Channel 59 for its proposed NTSC Channel 35 at Vicksburg, Mississippi at reference coordinates 32-11-29 N. and 90-24-22 W.¹

As set forth in the attached engineering proposal, (attached hereto as Exhibit A), operation on Channel 59 appears permissible with an effective radiated power ("ERP") of up to 5000 kW, utilizing a non-directional antenna and an antenna height above average terrain (HAAT) of 609 meters. Thus, VCA requests the following change to the NTSC Table of Allotments:

¹On November 22, 1999, the Commission opened a filing window to allow applicants for new NTSC television stations to modify their proposals to eliminate potential digital television (DTV) conflicts, which was scheduled to close on March 17, 2000. See Public Notice, DA 99-2605 (released November 22, 1999). The Commission later extended the filing window until July 15, 2000. See Public Notice, DA 00-536 (released March 9, 2000). Thus, this rule making is timely filed.

No. of Copies rec'd 074
List ABCDE

MMB

	<u>Current</u>	<u>Proposed</u>
Vicksburg, Mississippi	35	59

BACKGROUND

Initially, four parties filed mutually exclusive applications requesting Commission consent to the construction and operation of a new television station on Channel 35, Vicksburg, Mississippi. The initial applicant was KB Prime Media LLC ("KB Prime")², whose application appeared on a cut-off list on August 16, 1996. See Public Notice, Report No. A-196 (released August 16, 1996). Innovative Television, Inc. ("Innovative"), Cardinal Broadcasting Corporation ("Cardinal") and Edward I. St. Pe ("St. Pe") filed applications in response to that list. During the January 1998 settlement window, the applicants agreed to settle this proceeding and on January 30, 1998, filed a Joint Request for Approval of Settlement Agreement with the Commission. The settlement proposed the merger of KB Prime and Innovative to form VCA and the buyout of Cardinal and St. Pe, the remaining two applicants.³ The merged application appeared on a "B" cut-off list on February 12, 1998. See Public Notice, Report No. 171 (released February 12, 1998).

On August 17, 1998, VCA filed an amendment to Innovative's originally filed application to specify a new transmitter site and to address all issues regarding DTV interference. As its application had been cut-off, VCA believed that such amendment would permit the grant

²KB Communications Corporation ("KB Communications") was the initial applicant. However, on June 30, 1998, KB Communications amended its application to substitute KB Prime as the applicant therein.

³As VCA is the surviving applicant pursuant to the settlement agreement, consent to the instant channel change from Cardinal and St. Pe is unnecessary, since their applications will be dismissed under such agreement.

of its application. Unfortunately, the Commission has indicated that VCA's application, as amended, created an impermissible amount of interference to the DTV allotment of WCBI-TV, Columbus, Mississippi, and despite the fact that the Vicksburg channel had been cut-off, it was not protected during the process of awarding digital allotments. VCA argued that the parameters specified in its amended application would not cause such interference because the interference was masked by the interference caused by KB Prime's original application for this facility, which had been accepted for filing by the Commission and placed on a cut-off list. After numerous discussions with the Commission staff, the Commission's staff suggested that VCA either negotiate a settlement with WCBI-TV or locate a replacement channel and file a Petition for Rule Making.

VCA conducted an engineering study to locate a possible replacement channel. As demonstrated in Exhibit A, operation on Channel 59, Vicksburg, Mississippi appears to resolve any potential DTV issues, yet still provide a city-grade signal to the Vicksburg community. Accordingly, the instant Petition seeks Commission approval to expeditiously initiate a rule making proceeding to substitute and allot NTSC Channel 59 for its proposed NTSC Channel 35 at Vicksburg, Mississippi.

DISCUSSION

Pursuant to the Commission's Public Notice, an applicant for a new NTSC television station located in the freeze area is eligible to modify its proposal and request a substitute channel by way of a rule making in this filing window. However, such applicant is required to show that interference would be caused to a DTV facility should the requested channel change not be made. See Public Notice, DA 99-2605 (released November 22, 1999). VCA's pending application proposes operation within the freeze area and thus, it is eligible to file the instant rule

making. Furthermore, as noted above, the Commission's staff informed VCA that it would not grant its proposal to operate on Channel 35 in Vicksburg based on its determination that it will cause impermissible interference to WCBI-DT. Operation on Channel 59 would eliminate any such interference, and would allow VCA the opportunity to maximize its NTSC operations and to pursue its ongoing efforts to introduce a new local television service to the Vicksburg community.

Additionally, and in accordance with the Public Notice, VCA's proposed operation on Channel 59 complies with the Commission's minimum separation requirements specified in Section 73.610 and the DTV interference criterion specified in Section 73.623(c) of the Commission's rules.

If the proposal set forth herein is adopted, VCA will amend its pending application to specify the facility requested herein and, if authorized, will construct and place the station into operation.

CONCLUSION

For the foregoing reasons, VCA respectfully requests that the Commission initiate the rule making requested herein and that it substitute NTSC Channel 59 for NTSC Channel 35 at Vicksburg, Mississippi with an ERP of 5000 kW and an HAAT of 609 meters.

Respectfully submitted,

**VICKSBURG CHANNEL 35 ASSOCIATES,
LLC**

By: 

David D. Oxenford
Lauren Lynch Flick
Lara S. Meisner

Its Attorneys

SHAW PITTMAN
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006-1851
(202) 659-3494

Dated: April 24, 2000
J:\DATA\CLIENT\98\9853\9853003P.001

EXHIBIT A

TECHNICAL EXHIBIT
PREPARED IN SUPPORT OF
PETITION FOR RULE MAKING TO
MODIFY THE NTSC ALLOTMENT TABLE
CHANNEL 59
VICKSBURG, MISSISSIPPI

Technical Narrative

This technical narrative and associated exhibits have been prepared on behalf of Vicksburg Channel 35 Associates, LLC in support of a Petition for Rule Making to modify the NTSC allotment at Vicksburg, Mississippi by the proposed substitution of channel 59 for channel 35.

In the Public Notice, "Mass Media Bureau Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for new Analog TV Stations", released on November 22, 1999, the FCC announced a filing window opportunity for applicants with certain pending application and allotment petitions for new analog TV stations. Specifically, applicants with pending applications for new full-service NTSC television stations on channels 2-59 at locations inside of the "TV Freeze Areas" are eligible for the filing window.

Currently, Vicksburg Channel 35 Associates, LLC has a pending application (BPCT-961001LB) for operation on channel 35 which proposes to operate from a site located within the New Orleans TV Freeze Zone. The application site is located only 268.8 kilometers from the New Orleans, Louisiana freeze zone reference point, and is therefore considered eligible for the filing window.

The pending Vicksburg application proposes operation on TV channel 35 with a directional antenna maximum effective radiated power (ERP) of 5000 kilowatts and an HAAT of 253 meters. However, the allotment of DTV channel 35 to Columbus, Mississippi, ultimately placed a severe interference protection requirement on the pending application, which required an impractical directional antenna design in order to meet the FCC's DTV interference rules. Therefore, this petition for rulemaking proposes to substitute NTSC channel 59 for the channel 35 NTSC allotment at Vicksburg.

NTSC channel 59 can be substituted and allotted to Vicksburg, Mississippi in compliance with the principle community coverage requirements of section 73.685(a) at the following reference coordinates, Latitude 32° 11' 29", Longitude 90° 24' 22". This proposed site is located 24.9 kilometers southeast of the application site. Operation on channel 59 from this proposed site appears permissible with a non-directional maximum effective radiated power (ERP) of 5000 kilowatts and an HAAT of 609 meters.

The proposed transmitter site would meet the Commission's minimum separation requirements applicable to NTSC operation on channel 59 specified in Section 73.610. The proposed channel 59 operation complies with the FCC's interference criterion with respect to DTV allotments and authorized DTV facilities provided in Section 73.623(c). Therefore, it is proposed to modify the NTSC allotment at Vicksburg with the following specifications:

State & City	NTSC Channel	NTSC ERP(kW)	Antenna HAAT(m)
MS, Vicksburg	59	5000	609

It is proposed to amend the NTSC Table of Allotments,
Section 73.606(b) of the Commission's Rules, as follows:

<u>City</u>	<u>Channel No.</u>	
	<u>Present</u>	<u>Proposed</u>
Vicksburg, Mississippi	35	59

It is proposed to allot UHF channel 59 at Latitude 32° 11' 29", Longitude 90° 24' 22". The channel 59 facility proposes operation with an antenna radiation center height above mean sea level (RCAMSL) of 698 meters, an antenna radiation center height above average terrain of 609 meters, and a non-directional antenna ERP of 5000 kilowatts.

Figure 1 is a separation study toward other NTSC and DTV allotments based on a 161 kilometer "buffer". As indicated, the allotment reference point is fully-spaced to all other NTSC stations or allotments except toward a channel 51 vacant NTSC allotment at Jackson, Mississippi. With respect to the channel 51 allotment at Jackson, the Commission has allotted DTV channel 51 to Jackson, Mississippi, and therefore the channel 51 NTSC allotment will be deleted.

With respect to DTV allotments, the separation requirements can be used as an indication of which stations have the potential of receiving interference from the proposed channel 59 NTSC operation.

Figure 2 provides a summary of DTV interference and service for the proposed channel 59 NTSC allotment. Determination of DTV interference was made in accordance with the procedures adopted in the FCC's Second Memorandum

Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders in MM Docket No. 87-268 and outlined in OET Bulletin No. 69. Studies indicate that the proposed channel 59 operation would not cause prohibited interference to any DTV allotments, and therefore the proposed operation is in full compliance with the FCC's interference criterion with respect to pertinent DTV allotments.

Figure 3 is a map which depicts the City Grade (80 dBu), Grade A (74 dBu), and Grade B (64 dBu) contours for the proposed channel 59 NTSC operation. The city limits of Vicksburg based on the 1990 Census data, are also shown. As indicated, all of Vicksburg is located within the predicted City Grade contour. Therefore, the proposed channel 59 NTSC allotment will comply with the FCC's city coverage requirements.

Conclusion

It is believed that channel 59 can be substituted for the current channel 35 NTSC allotment at Vicksburg, in compliance with the FCC rules concerning NTSC allotment changes.


Jerome J. Manarchuck

du Treil, Lundin & Rackley, Inc.
201 Fletcher Avenue
Sarasota, Florida 34237

February 22, 2000

TV - TV Separation Study

Job Title :CH. 59
Zone : 2
Channel 59 (740-746 MHz)

Separation Buffer 161 km
FCC TV DB Date : 12/30/99
Coordinates : 32-11-29 90-24-22

Call Status	City St	FCC File No.	Channel Zone	ERP(kW) HAAT(m)	Latitude Longitude	Bear. True	Dist. (km)	Req. (km)
WDTLTV CP	GREENVILLE MS		44(o) II	1000 145	33-32-35 90-50-48	344.8	155.48 35.58	119.9 CLEAR
WGMB LIC	BATON ROUGE LA		44(+) III	3890 DA 426	30-19-35 91-16-36	202.0	222.79 102.89	119.9 CLEAR
ADD	COLUMBUS MS	-	*44 II	50 DA 238	33-51-12 88-23-33	44.9	263.38 143.48	119.9 CLEAR
NEW DTV CHANNEL PROPOSED BY WMAA-TV (NTSC #43)								
NEW APP	COLUMBIA MS		*45(o) III	589. 113	31-16-00 89-49-56	152.0	116.07 20.37	95.7 CLEAR
REQUESTS A WAIVER OF FREEZE.								
ALLOC.	COLUMBIA MS	-	*45(o) III	0	31-15-15 89-50-08	152.5	117.16 21.46	95.7 CLEAR
WKDH CP	HOUSTON MS		45(+) II	5000 506	33-47-40 89-05-16	34.2	216.32 120.62	95.7 CLEAR
NEW APP	JACKSON MS		51(o) II	5000 371	32-14-26 90-24-15	2.0	5.47 -25.93	31.4 SHORT ¹
REQUESTS A WAIVER OF FREEZE								
NEW APP	JACKSON MS		51(o) II	1510 293	32-16-53 90-17-41	46.3	14.49 -16.91	31.4 SHORT ¹
REQUESTS A WAIVER OF FREEZE.								
NEW APP	JACKSON MS		51(o) II	724. 377	32-16-53 90-17-41	46.3	14.49 -16.91	31.4 SHORT ¹
REQUESTS A WAIVER OF FREEZE								
NEW APP	JACKSON MS		51(o) II	5000 180	32-17-44 90-14-44	52.5	19.05 -12.35	31.4 SHORT ¹
REQUESTS A WAIVER OF FREEZE.								
ALLOC.	JACKSON MS	-	51(o) II	0	32-17-54 90-11-30	59.4	23.44 -7.96	31.4 SHORT ¹
NEW APP	JACKSON MS		51(o) II	5000 DA 146	32-33-55 90-04-51	36.2	51.55 20.15	31.4 CLEAR

¹ The channel 51 allotment at Jackson, Mississippi will be deleted as a result of the allotment of DTV channel 51 to Jackson, Mississippi.

TV - TV Separation Study

Job Title :CH. 59
Zone : 2
Channel 59 (740-746 MHz)

Separation Buffer 161 km
FCC TV DB Date : 12/30/99
Coordinates : 32-11-29 90-24-22

Call Status	City St	FCC File No.	Channel Zone	ERP(kW) HAAT(m)	Latitude Longitude	Bear. True	Dist. (km)	Req. (km)
NEW	JACKSON		51(o)	5000	32-36-51	37.8	59.51	31.4
APP	MS	BPCT-960710KU	II	228	90-01-00		28.11	CLEAR
NEW	JACKSON		51(o)	5000	32-38-31	36.0	61.98	31.4
APP	MS	BPCT-960930LW	II	305	90-00-59		30.58	CLEAR
REQUESTS A WAIVER OF FREEZE								
NEW	JACKSON		51(o)	5000	32-41-25	42.2	74.96	31.4
APP	MS	BPCT-960710KY	II	554	89-52-06		43.56	CLEAR
NEW	JACKSON		51(o)	5000	32-41-25	42.2	74.96	31.4
APP	MS	BPCT-961001UU	II	559	89-52-06		43.56	CLEAR
REQUESTS A WAIVER OF FREEZE								
	EL DORADO		*52(o)		32-46-49	289.8	199.24	95.7
ADD	AR	-	II	0	92-24-31		103.54	CLEAR
RM TO SUBSTITUTE CH *52 FOR CH *30+ - APPLICATION SITE.								
NEW	WIGGINS		56(+)	5000	31-07-09	148.7	139.00	31.4
APP	MS	BPCT-960920LV	III	609	89-38-49		107.60	CLEAR
REQUESTS A WAIVER OF FREEZE.								
	WIGGINS		56(+)		30-52-54	144.3	178.56	31.4
ALLOC.	MS	-	III	0	89-18-44		147.16	CLEAR
SITE RESTRICTION OF 10.6 MILES WEST.								
	HAMMOND		62(+)		30-30-06	181.6	187.43	31.4
ALLOC.	LA	-	III	0	90-27-42		156.03	CLEAR

TV - DTV Separation Study

Job Title :CH. 59

Zone : 2

Channel 59 (740-746 MHz)

Separation Buffer 161 km

FCC DTV DB Date: 12/18/98

Coordinates : 32-11-29 90-24-22

Call Status	City St	FCC File No.	Channel Zone	ERP(kW) HAAT(m)	Latitude Longitude	Bear. True	Dist. (km)	Req. (km)
DWMAWTV DTVALT	MERIDIAN MS		44 III	50 369	32-08-18 89-05-36	92.4	123.97 27.37	24.1/96.6 CLEAR
DWGMB DTVALT	BATON ROUGE LA		45 III	143.3 426	30-19-35 91-16-36	202.0	222.78 126.18	24.1/96.6 CLEAR
DWLBTTV DTVALT	JACKSON MS		51 II	1000 610	32-12-46 90-22-54	44.0	3.31 20.79	24.1/96.6 CLEAR
DWJTV DTVALT	JACKSON MS		52 II	1000 497	32-14-26 90-24-15	2.0	5.46 18.64	24.1/96.6 CLEAR
DKNOETV DTVALT	MONROE LA		55 II	1000 576	32-11-45 92-04-10	270.6	156.85 60.25	24.1/96.6 CLEAR
DKAQY DTVALT	COLUMBIA LA		57 II	1000 572	32-03-19 92-11-12	265.3	168.70 72.10	24.1/96.6 CLEAR
DWTVA DTVALT	TUPELO MS		57 II	1000 542	33-47-40 89-05-16	34.2	216.31 119.71	24.1/96.6 CLEAR
DWHLT DTVALT	HATTIESBURG MS		58 III	52 244	31-24-20 89-14-13	128.0	140.89 34.89	12.0/106.0 CLEAR
WHLT-DT APP DIGITAL TV	HATTIESBURG MS BPCDT-991025DY		58 III	1000 213	31-24-20 89-14-13	128.0	140.90 53.20	87.7 CLEAR
WHNT-DT CP DIGITAL TV; ERP AS SHOWN ON CP	HUNTSVILLE AL BPCDT-990910AJ		59 II	89 517	34-44-19 86-31-56	50.7	457.71 176.91	280.8 CLEAR
DWDIQ DTVALT	DOZIER AL		59 III	1000 210	31-33-16 86-23-32	99.5	386.33 141.73	244.6 CLEAR

Figure 2

TECHNICAL EXHIBIT
 PREPARED IN SUPPORT OF
 PETITION FOR RULE MAKING TO
 MODIFY THE NTSC ALLOTMENT TABLE
 VICKSBURG, MISSISSIPPI

Interference and Service Summary

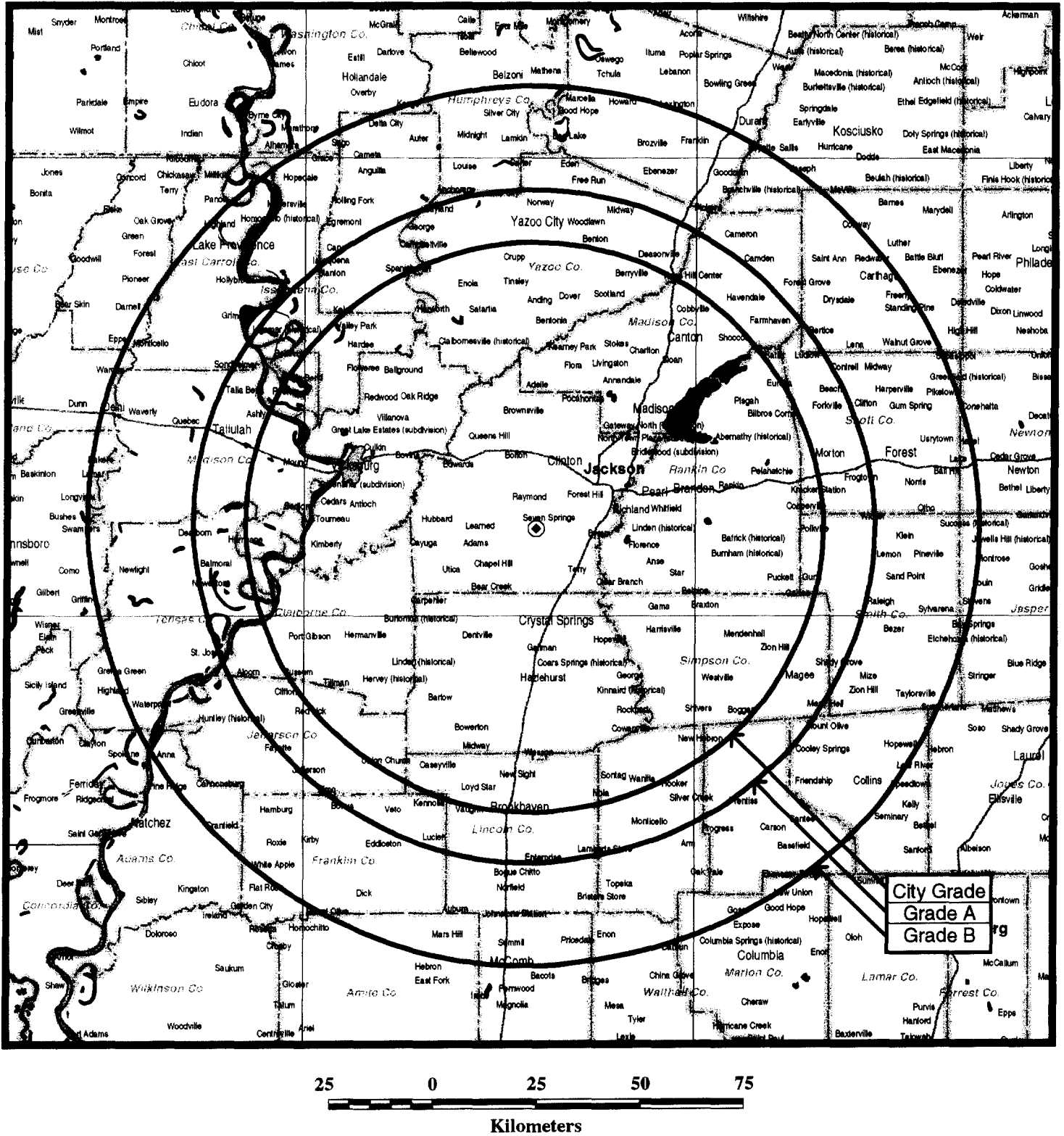
I. Interference Caused

Protected DTV Station	FCC Service Population	Interference Population
WHLT-DT, DTV Ch. 58 Hattiesburg, MS (App.)	341,162	77 (0.0%)

II. Service

	Population
Grade B Contour	750,685

Figure 3



PREDICTED COVERAGE CONTOURS

PROPOSED NEW(TV)
VICKSBURG, MISSISSIPPI
CH 59 5000 KW 609 M

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

CERTIFICATE OF SERVICE

I, Shelle Mays, a secretary in the law firm of Shaw Pittman, hereby certify that on this 24th day of April, 2000, I caused to be served by first class United States mail, postage prepaid, a copy of the foregoing **"Petition for Rule Making,"** on the following:

*Clay Pendarvis, Chief
Television Branch
Mass Media Bureau
Federal Communications Commission
445 12th Street, SW
2-A662
Washington, DC 20554

*John H. Morgan
Assistant Chief of Engineering
Television Branch
Mass Media Bureau
Federal Communications Commission
445 12th Street, SW
2-C864
Washington, DC 20554

Harry F. Cole, Esq.
Bechtel & Cole, Chtd.
1901 L Street, N.W.
Suite 250
Washington, D.C. 20036

Arthur V. Belendiuk, Esq.
Smithwick & Belendiuk, P.C.
1990 M Street, N.W.
Suite 510
Washington, D.C. 20036

Robert Price, President
Cardinal Broadcasting Corporation
45 Rockefeller Plaza
Suite 3201
New York, NY 10020


Shelle Mays

*via hand delivery